

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK

BRIAN JOHNSTON and NILE CHARLES,

Plaintiffs,

v.

APPLE INC. and OMNISCIENT INVESTIGATION  
CORPORATION,

Defendants.

X

1:11-cv-03321-JSR

**NOTICE OF MOTION**

**NOTICE OF MOTION TO DISMISS PLAINTIFFS' SECOND AMENDED  
COMPLAINT**

PLEASE TAKE NOTICE, that upon all moving papers submitted in support of Apple Inc.'s August 10, 2011 Motion to Dismiss the Second Amended Complaint; the August 10, 2011 Declaration of Thomas M. Crispi in Support of Apple Inc.'s Motion to Dismiss the Second Amended Complaint; and the exhibits attached thereto, Apple Inc. will move this Court in Courtroom 14B at the United States Courthouse, 500 Pearl Street, New York, New York, on September 2, 2011, at 4:30 P.M., for an Order pursuant to Federal Rule of Civil Procedure 12(b)(6) and Federal Rule of Civil Procedure 12(d), granting judgment to Apple Inc., and for such other and further relief as to this Court seems just and proper.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Court's schedule and the consent of the parties, Plaintiffs' answering papers, if any, are due on August 19, 2011, and Apple Inc.'s reply papers, if any, are due on August 26, 2011.

**Signature Block Appears on the Following Page**

Dated: New York, New York  
August 10, 2011

Respectfully submitted,  
**SCHIFF HARDIN LLP**

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